

IN THE GRAND COURT OF THE CAYMAN ISLANDS

708  
CAUSE NO: OF 2003

BETWEEN:

MARY BODDEN



PLAINTIFF

AND:

DEBRA J. PRENDERGAST

DEFENDANT

WRIT OF SUMMONS

TO: Debra J. Prendergast

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495GT, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

ISSUED this 31 day of October 2003

**NOTE -** This Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgement of Service are given with the accompanying form.

## **STATEMENT OF CLAIM**


1. The Plaintiff on the 28th day of February 1998 loaned to the Defendant CI\$30,000.00 under a signed promissory note agreement.
2. The Defendant agreed with the Plaintiff under the aforementioned promissory note to repay to the Plaintiff the principal sum of CI\$30,000.00 and in addition thereto 5% interest per annum.
3. The Plaintiff will rely upon the said promissory note for its' full terms and effects.
4. The Plaintiff has on numerous occasions, both written and oral, demanded from the Defendant repayment of the CI\$30,000.00 and the interest accrued thereon. However, without justification the Defendant has either failed/refused or neglected to repay the Plaintiff.

### **AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT: -**

1. Payment of the said sum of CI\$30,000.00
2. Interest on the said sum as aforesaid at the rate of 5 per annum from the date the amount was loaned, viz., February 28th, 1998 until the commencement of these proceedings in the sum of CI\$9,564.73 and continuing at the daily rate of CI\$5.25.
3. Fixed costs in the sum of CI\$500.00 together with the fees payable for issuing and service of this Writ in the sum of CI\$195.00
4. Any further or other relief as this Honourable Court may deem just.

[If within the time for returning the Acknowledgement of Service, the Defendant pays the total amount claimed of Forty Thousand Two Hundred and Fourteen Dollars and Seventy Three Cents Cayman Islands Dollars (CI\$40,259.73) plus interest and costs, then further proceedings will be stayed. The money must be paid to the Plaintiff's or their Attorneys.]

Dated the 31 day of October 2003

  
\_\_\_\_\_  
MORRIS M. GARCIA  
Attorney-at-Law for the Plaintiff

TO: The Clerk of Court  
AND TO: The Defendant


**THIS WRIT OF SUMMONS** was issued by Morris M. Garcia, Attorney-at-Law, for and on behalf of the Plaintiff herein whose address for service is that of her said Attorney P.O. Box 243 SAV, Suite #2 Nevlaw Building, George Town, Grand Cayman.

## STATEMENT REGARDING INTEREST

1. The interest rate claimed throughout the relevant period is 5% to the date of issue.
2. The date from which interest is claimed is February 1998.
3. The total amount of interest claimed, as at October 31st, 2003 is CI\$9,564.73.
4. The amount of interest accruing each day hereafter is CI\$5.25.

[If within the time for returning the Acknowledgement of Service, the Defendant pays the total amount claimed of Forty Thousand Two Hundred and Fourteen Dollars and Seventy Three Cents Cayman Islands Dollars (CI\$40,259.73) including interest and costs, then further proceedings will be stayed. The money must be paid to the Plaintiff or her Attorney.]

DATED this 31 day of October 2003

  
\_\_\_\_\_  
MORRIS M. GARCIA  
Attorney-at-Law for the Plaintiff

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

708  
CAUSE NO: OF 2003

**BETWEEN:**

**MARY BODDEN**

**PLAINTIFF**

**DEBRA J. PRENDERGAST**

**DEFENDANT**

**ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form **IMMEDIATELY**.

**IMPORTANT.** Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly **THIS FORM MAY HAVE TO BE RETURNED.**

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ of Summons is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

\_\_\_\_\_ YES

\_\_\_\_\_ NO

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3. If the claim against the Defendant is for a debt or liquidated demand **AND** he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick appropriate box).

\_\_\_\_\_ YES

\_\_\_\_\_ NO

Service of the Writ is acknowledged accordingly.

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**Attorney for the Defendant**

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**Defendant**

*Please complete overleaf*

**DIRECTION FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of **Acknowledgement of Service** should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement of Service that he intends to contest the proceedings **must also serve a defence** on the Attorney for the Plaintiff (or the Plaintiff if acting in person).

If a Statement of Claim is endorsed on the Writ (i.e. The words "Statement of Claim" appear on the top of page 2), the defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If a Statement of Claim is not endorsed on the Writ, the defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. **A Stay of Execution** against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgement of Service, that he intends to apply a stay, execution will be stayed for 14 days after his Acknowledgement, but he must, within that time, **issue a Summons** for a stay of execution, supported by affidavit of his means. The affidavit should state any offer which the Defendant desires to make for the payment of the money by instalments or otherwise.

**See over notes for guidance**

**Please complete overleaf**

## Notes for guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a firm and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of ( ..... ) after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as ( ..... ) after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised to act on behalf of the company, but the company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a **guardian ad litem**.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

**Notes on address for service**

**Attorney:** Where the Defendant is represented by an Attorney, state the Attorney's place of business in the Cayman Islands. A Defendant may not act by foreign Attorney.

**Defendant in person:** Where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

*Endorsement by Plaintiff's Attorney (or by Plaintiff suing in person) of his name, address and reference, if any, in the box below:*

**MORRIS M. GARCIA**  
Attorney-at-Law / Notary Public  
P.O. Box 243SAV  
Grand Cayman  
Cayman Islands  
British West Indies

*Endorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below:*